

cf 100
Single Bench
(1)
(2)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4587 OF 2004.

PETITIONER

: Smt. Chameli Swarnkar, wife of
Shri D.R. Swarnkar, aged about
52 years, P.O. Gadariyapara,
Dondi, District : Durg (C.G.)

VERSUS

RESPONDENTS

P.R. No. 4575/04
Presented by Shri. D.R. Swarnkar
dated 23.11.04

1. State of Chhattisgarh through
the Secretary, Tribal &
Welfare Department, Raipur.
2. The Collector, Tribal Welfare
Department, Durg, Distt :
Durg (CG).
3. Assistant Commissioner,
Tribal Welfare Department,
Office of Collector, Durg, Distt
: Durg (CG).
4. Block Education Officer,
Dondi, Distt : Durg (CG).

RECEIVED
23/11/04
DURG
G. BILASPUR

**WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF
INDIA.**

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W. P. No. 4587/2004
सन् 200

मामला क्रमांक

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	15.02.2005 Shri Vinod Deshmukh, counsel for the petitioner. Shri Sudhir Agrawal, Panel Lawyer for the State/respondents No. 1 to 4 on advance copy. Heard on admission. The petitioner has filed the writ petition, challenging the validity of her transfer order dated 31.7.2004 (Annexure-P/1) by which she has been transferred from Adivasi Kanya Ashram, Dondi, District Durg to Adivasi Kanya Ashram, Aammadola, District Durg on the administrative exigency. Learned counsel for the petitioner submits that the petitioner is posted at Dondi since 1997. He further submits that the petitioner is a Lady and she has been transferred to a place, which is a Jungle area and it would be difficult for her to reside there and serve at that place. It is also submitted that the transfer of petitioner is a mid-session transfer by which, in fact institution shall be affected where the petitioner is working. He further submits that on all these grounds, the petitioner has filed a representation on 11.8.2004 (Annexure-P/3) but the authorities are not deciding the same. The limitations in relation to interference in the matter of transfer are now well settled. The order of transfer can be challenged either on the grounds of malafide or on the ground of violation of any law or rule or the policy. Transfer is an exigency of service. The persons working on the	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मायला क्रमांक W.P.No. 4587/2004 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	transferable post cannot challenge the order of transfer in general manner unless certain malafides or violation of law or rule is shown. The petitioner has not pleaded any such malafide nor the counsel for the petitioner could point out violation of any law, rule or policy. The transfer has been made on administrative exigency as is clear from the order dated 31.7.2004 (Annexure-P/1). In the matter of <u>Mahipal Prasad Sahu Vs. Chhattisgarh State Electricity Board reported in 2001 (2) C.G.L.J., pg. 116</u>, this Court held that the transfer orders are normally passed in exigency of public service. Unless it is shown that the order is malafide or in contravention of statutory rules, the Court would not be inclined to interfere with the order. In the matter of <u>State of U.P. and others Vs. Siya Ram and another reported in 2004 AIR SCW, pg. 4548</u> the Hon'ble Apex Court held that no Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service. Considering the facts and circumstances of the case and after going through the decisions referred to above and particularly the time since which the petitioner is posted at Dondi i.e. since 1997, this Court is not inclined to interfere with the order of transfer of the petitioner.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मायला क्रमांक W.P. No. 4587/2004 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक या आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	At this stage, learned counsel for the petitioner submits that the petitioner has already filed a representation before the concerned authority and the authority may be directed to decide the representation in accordance with law. The prayer seems to be reasonable. If the representation of the petitioner has not been decided so far, the concerned authority will decide the same in accordance with law without being influenced by the observations made in this order. The petition has no merits and the same is dismissed at motion stage itself. Consequently, M.W.P. No. 4917/2004 stands disposed of.	Sd/- Sunil Kumar Sinha Judge